IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

WP(C).No. 14119 of 2006(E)

AGAINST THE ORDER IN EA.2243/05, 2244,2245,EP.456/04 IN OS.702/1999 of II ADDL.SUB COURT,THRISSUR

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PETITIONER:

OUSEPH, S/O.THAIKKATTIL POULOSE,
AGED 41 YEARS, THAIKKATTIL HOUSE, AVENUE ROAD,
CHEROOR DESOM, THRISSUR DISTRICT.

BY ADV. SRI.JIJO PAUL

RESPONDENTS:

MONARCH KURIES PVT. LTD.,
T.B. ROAD, THRISSUR.

BY ADV. SRI.K.A.SREEJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

Ext.P1:- True copy of the execution petition in E.P.No.456/2004 in O.S.702/1999 filed by the respondent dated, 15-7-2004.

Ext.P2:- True copy of the I.A.No.1884/2005 filed by the petitioner dated, 4-10-2005 in Exhibit P1 proceedings.

Ext.P3:- True copy of the petition filed by the petitioner in E.A.Nos.2243/2005 dt. 23-11-05 for review the order.

Ext.P4:- True copy of the petition filed by the petitioner in E.A.2244/2005 dt, 23-11-04 for issuing warrant.

Ext.P5:- True copy of the petition filed by the petitioner in E.A.No.2245/05 dt,23-11-2004 to re-open the evidence.

Ext.P6:- True copy of the counter statement filed by the decree holder in Exhibit P1 petition dated, 2-12-2005.

Ext.P7:- True copy of the counter statement filed by the decree holder in Exhibit P2 petition dated, 2-12-2005.

Ext.P8:- True copy of the counter statement filed by the decree holder in Exhibit P3 petition dated, 2-12-2005.

Ext.P9:- True copy of the common order passed in Exhibits P3 to P5 petitions by the Subordinate Judge, Thrissur dated, 5-1-2006.

M.SASIDHARAN NAMBIAR,J.

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W.P.(C) NO. 14119 OF 2006

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Dated this the 11th day of December,2006

JUDGMENT

Petitioner is the second judgment debtor. Respondent is the decree holder. Petitioner claimed that he has no means to pay the decree debt. Executing court passed an order of arrest. Petitioner filed E.A.2243/05, 2244/05, 2245/05 to reopen the evidence and to recall the witness examined and adduce evidence. As per Ext.P9 order, learned Munsiff allowed the applications on depositing of Rs.50,000/- within fifteen days. The said condition is challenged in this petition filed under Article 227 of the Constitution of India. As per order dated 31.5.06, this court directed petitioner to deposit Rs.15,000/- for payment to the decree holder. Petitioner deposited that amount.

2. Learned counsel appearing for petitioner and respondent were heard.

3. The learned Sub Judge has already allowed the petitioner's prayer to reopen the evidence and to cross examine the witness, on condition that petitioner deposits Rs.50,000/-. As ordered by this court petitioner had already deposited Rs.15,000/-. Ext.P9 order is modified limiting the amount to be deposited to Rs.15,000/-. As that amount is deposited, executing court is directed to proceed with the execution petition. The executing court to dispose the execution petition as expeditiously as possible, and in any event, within two months from the date of receipt of a copy of this judgment.

Writ Petition is disposed as above.

M.SASIDHARAN NAMBIAR
JUDGE

tpl/-

M.SASIDHARAN NAMBIAR, J.

W.P.(C).NO. /06

JUDGMENT

SEPTEMBER,2006